



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,118	01/05/2001	Marlo Donald Neuleib	8528-004-64	3274

7590 08/21/2003

CATHERINE B. RICHARDSON, ESQ.  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P. O. BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER
----------

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/754,118

Applicant(s)

NEULEIB, MARLO DONALD

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15, 17-18, and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is response to the applicant's amendment filed on 6/10/03.

#### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "the toehold portion defined by an upper generally planar support surface for engaging a portion of user's foot, an opposing lower surface, and an edge surface extending therebetween; wherein said upper generally planar support surface is disposed substantially perpendicular to said base portion".

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, 17-18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matich (US 2,708,543) in view of Crookham (US 6,464,196).

In regard to claims 1, 11, 12, Matich teaches a rubber grip roof ladder comprising a length of a connecting material 12, a plurality of steps 26 attached to the connecting material 12 and the steps 26 being parallel, spaced apart by a distance. The steps 26 having toehold portion 26, a base portions 32, 34 are substantially perpendicular to each other. Matich does not teach specifically the toehold portion 26 having an upper surface is generally planar surface. Since the applicant's specification does not provide

any specific reasons why so important about the upper surface is planar surface, examiner considers this would have been obvious of design choice for making the toehold portion has a planar or arcuate upper surface.

In regard to claim 8, Matich teaches a depression 54 serves as a handle, a lifeline 80. In regard to claim 13, Matich teaches the rubber ladder is composed with non-skid rubber (col. 1, line 24). In regard to claim 18, Matich teaches the rubber roof ladder for roof-workers on the same roof to use a full-length rubber ladder (col. 1, lines 63-65).

In regard claim 15, Matich does not disclose expressly the step system comprises ruler demarcations along one edge. Crookham teaches apparatus for temporary spread footing including transverse members 56, 58, 48, and 16 with marking ruler demarcations. At the time of the invention, it would have been obvious to a person of ordinary skill in the art modify Matich step system with Crookham's for the marking of ruler demarcations on one edge. The motivation for doing so would have been to provide more accurate adjusting the steps along the roof.

With regards to the claim 9, Matich teaches the structural elements for the step system including the lifeline 80. Matich does not specifically teach the lifeline attachable to the handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the lifeline to the handle, since it has been held that rearranging parts of an invention involves only routine skill in the art.

In regard to claims 2-7, 10, 17, and 20, Matich teaches the structural elements for the step system except for the steps are spaced apart by approximately 20-36", the connecting material is approximately 10-36" wide, and is nylon 6000 pound seat belt

webbing, 1,000 denier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the specific dimension for the steps, the connecting material, since it has been held to be within the general skill of a worker in the art to select a known material and cutting down to the desirable dimensions on the basis of its suitability for the intended use as a matter of obvious design choice.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Match (US 2,708,543) in view of DE 3719969.

Match discloses the structural elements for the step system as stated.

Match does not disclose expressly the step system having a keyhole-shaped sleeve for passage of a fastener.

DE 3719969 teaches the step system including a plurality of steps 4 having a plurality of keyhole-shaped sleeve 5 for passage of a fastener as shown in fig. 1. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Match's step system with DE's teaching for the keyholes for fasteners. The motivation for doing so would have been to provide more securement for the steps to the connecting element.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-15, 17-18, and 20-22 have been considered but are moot in view of the new ground(s) of rejection. Moreover, with regard to the applicant's argument that the Match prior art does not teach a step having toehold portion and a base portion, the base portion being attached to the connecting material. Examiner does not agree because Match's fig. 1 clearly shows a step 2

Art Unit: 3635

having a toehold portion 26, a base portion 34 are perpendicular to each other, which are equivalent to the applicant's toehold portion 134 and a base portion 132 in fig. 7. And with regard to the applicant's argument that the toehold portion defined by an upper generally planar support surface (see rejections above).

**Conclusion**

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CQN  
8/13/03  
Chi Nguyen

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600